

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re HAIN CELESTIAL HEAVY
METALS BABY FOOD LITIGATION

Case No.: 2:21-CV-0678-JS-AYS

This Document Relates To:
ALL ACTIONS

**DECLARATION OF JASON P. SULTZER
IN SUPPORT OF MOTION TO APPOINT INTERIM LEAD COUNSEL,
INTERIM LIAISON COUNSEL, AND INTERIM EXECUTIVE COMMITTEE**

I, Jason P. Sultzer, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an attorney duly admitted before this Court. I am a partner at The Sultzer Law Group. I submit this declaration in support of my appointment as liaison counsel pursuant to Federal Rule of Civil Procedure 23(g). Each of the facts set forth below is true and correct with my personal knowledge and if called and sworn as a witness, I would competently testify thereto.

2. The Sultzer Law Group, P.C. is one of the preeminent plaintiff's class-action and complex commercial law firms in the nation with particular expertise in consumer class-actions. Since its founding in 2013, The Sultzer Law Group has served as lead counsel in numerous high-profile consumer class action cases. The firm is included in Martindale-Hubbell's Bar Register of Preeminent Lawyers for its class action practice. All of the partners in the firm are AV rated by Martindale-Hubbell and have been selected as Super Lawyers. In addition, they have also been selected as the American Law Media's Mass Tort Lawyers of the Year.

3. The firm's attorneys have contributed to or been featured in various well-known publications regarding their class action practice, including: Law360, Inside Counsel Magazine,

Risk Management Magazine, CNBC News, Reuters, Bloomberg News, and the New York Post. The Sultz Law Group was named the best nationwide civil dispute firm in the U.S. Business News Legal Elite Awards in 2020.

4. The Sultz Law Group has extensive experience in the area of consumer fraud class-actions and have successfully challenged some of the nation's largest and most powerful corporations for a variety of unfair and deceptive business practices, including false advertising and mislabeling.

5. As demonstrated by the cases described in our firm's resume, attached as Exhibit A, The Sultz Law Group has achieved great success for consumers throughout the nation.

6. The Sultz Law Group has been particularly active within the Second Circuit and has created extensive case law and has obtained significant class-wide settlements in this Circuit in false advertising and mislabeling class actions involving all types of consumer products and food, including: *Luib v. Henkel Consumer Goods, Inc.*, No. 1:17-cv-03021-BMC, 2018 U.S. Dist. LEXIS 18598 (S.D.N.Y. Feb. 5, 2018); *Barton v. Pret A Manger (USA) Ltd.*, No. 1:20-cv-04815 GHW, 2021 U.S. Dist. LEXIS 81336 (S.D.N.Y. Apr. 27, 2021); *Rapoport-Hecht, Tziva et al. v. Seventh Generation, Inc.*, No. 14-CV-9087 (KMK), 2017 U.S. Dist. LEXIS 218781 (S.D.N.Y. Apr. 28, 2017); *Vincent, Wesley, et al. v. People Against Dirty, PBC. and Method Products, PBC.*, No. 16-cv-6936 (NSR), Dkt. 41 (S.D.N.Y. March 13, 2017); *Mayhew, Tanya, et al., v. KAS Direct, LLC and S.C. Johnson & Son, Inc.*, No. 16 CV 6981 (VB), 2018 U.S. Dist. LEXIS 106680 (S.D.N.Y. June 26, 2008); *Patora v. Tarte, Inc.*, No. 7:18-cv-11760-KMK, Dkt. 50 (S.D.N.Y. Jan. 29, 2020); *Sitt v. Nature's Bounty, Inc.*, No. 15-cv-4199-MKB-MDG, 2016 U.S. Dist. LEXIS 131564 (E.D.N.Y. Sept. 26, 2016); *Silva v. Smucker Natural Foods, Inc.*, No. 14-cv-6154 (JG)(RML), 2015 U.S. Dist. LEXIS 122186 (E.D.N.Y. Sept. 14, 2015); *Grossman v. Simply*

Nourish Pet Food Company LLC, No. 2:20-cv-01603-KAM-ST, 2021 U.S. Dist. LEXIS 15864 (E.D.N.Y. Jan. 27, 2021); *Silva v. Hornell Brewing Co.*, No. 20-cv-756 (ARR) (PL), 2020 U.S. Dist. LEXIS 142900 (E.D.N.Y. Aug. 10, 2020); *Petrosino v. Stearn's Products, Inc.*, No 7:16-cv-007735-NSR, 2018 U.S. Dist. LEXIS 55818 (S.D.N.Y. Mar. 30, 2018); *Wedra v. Cree, Inc.*, No. 19 CV 3162 (VB), 2020 U.S. Dist. LEXIS 49266 (S.D.N.Y. Mar. 20, 2020).

7. Given my substantial experience with class-actions within this District and this Circuit, I am intimately familiar with the local rules, practices and procedures. My extensive experience litigating consumer class-actions in this Circuit make The Sultz Law Group well-qualified to serve as liaison counsel in this action. Our New York City office also makes the Sultz Law Group geographically well-positioned to serve as liaison counsel.

8. Courts in this Circuit have recognized The Sultz Law Group's significant experience with regards to its class action practice. See *Patora v. Tarte, Inc.*, Case No. 18-cv-11760-KMK (SDNY), (Judge Kenneth M. Karas stated that "[t]he plaintiff here was ably represented by class counsel, who is clearly well-versed in complex class action litigation. I can speak from personal experience dealing with The Sultz Firm, which has many highly-qualified and capable and experienced lawyers representing plaintiffs in consumer class actions. . ."). See also *Shiv Patel v. St. John's University*, Case No. 1:20-cv-02114 (EDNY) (Judge Steven Gold observed that, "The firms' expertise and competency in the class action context are reflected by the favorable outcomes they have obtained in previous suits... particularly in light of their impressive record.").

9. In addition to class-actions, I also have significant trial experience with cases, such as this one, involving lead, heavy metals and other toxic contaminants. My deep experience with cases involving toxic contaminants and the issues they present during discovery and trial give him

the unique advantage of knowing how to efficiently streamline discovery and avoid needless disputes that waste party and court resources.

10. As the firm's founding partner, I have earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys, and am a member of their Trial Law and Diversity Institute. I have also been recognized as a Super Lawyer for the last ten years, and was selected for Lawdragon's list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. For a full list of my accomplishments, see our firm resume attached as Exhibit A.

11. If appointed as liaison counsel, I will be working with my senior associate, Mindy Dolgoff. Ms. Dolgoff is an experienced class-action litigator who was a member of the trial team that took one of the few securities class action cases to trial and achieved a favorable verdict for its investor clients.

Dated: May26, 2021

/s/ Jason P. Sultzer
JASON P. SULTZER
COUNSEL FOR PLAINTIFF

EXHIBIT 1



The Sultz Law Group, P.C. focuses on consumer class actions and other complex civil litigation. The firm is headquartered in Poughkeepsie, New York, and maintains offices in New York City, New Jersey, California, and Pennsylvania. Since its founding in 2013, The Sultz Law Group, P.C. has served as lead counsel in numerous high-profile consumer class action cases. The firm is included in Martindale-Hubbell's Bar Register of Preeminent Lawyers for its class action practice. All of the partners in the firm are AV rated by Martindale-Hubbell and have been selected as Super Lawyers. In addition, they have also been selected as the American Law Media's Mass Tort Lawyers of the Year. The firm's founding partner, Mr. Sultz, has earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys, and is a member of their Trial Law and Diversity Institute. Mr. Sultz has also been named in Lawdragon's list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. The firm's attorneys have contributed to or been featured in various well-known publications regarding their class action practice, including: *Law360*, *Inside Counsel Magazine*, *Risk Management Magazine*, *CNBC News*, *Reuters*, *Bloomberg News*, and the *New York Post*. The Sultz Law Group was named the best nationwide civil dispute firm in the U.S. Business News Legal Elite Awards in 2020. More detail about the firm, its practice areas, and its attorneys appear on its website: www.thesultzlawgroup.com

I. Class Action Litigation Experience

Attorneys at The Sultz Law Group, P.C. have advocated for consumers' and workers' rights, successfully challenging some of the nation's largest and most powerful corporations for a variety of improper, unfair, and deceptive business practices in a wide range of industries including, the auto, financial, cosmetic, food, and supplement industries. Through our efforts, we have recovered significant benefits for our consumer clients. Moreover, courts throughout the country have recognized The Sultz Law Group's significant experience with regards to its class action practice. See *Patora v. Tarte, Inc.*, Case No. 18-cv-11760-KMK (SDNY), (Judge Kenneth M. Karas stated that "[t]he plaintiff here was ably represented by class counsel, who is clearly well-versed in complex class action litigation. I can speak from personal experience dealing with The Sultz Firm, which has many highly-qualified and capable and experienced lawyers representing plaintiffs in consumer class actions. . ."). See also *Shiv Patel v. St. John's University*, Case No. 1:20-cv-02114 (EDNY) (Judge Steven Gold observed that, "The firms' expertise and competency in the class action context are reflected by the favorable outcomes they have obtained in previous suits... particularly in light of their impressive record.")

Recent Settled matters include:

- *Foster, Andrew Tyler et al. v. L-3 Communications EOTECH, Inc., et al.*, Case No. 15-cv-03519 (W.D. Mo.) (served as co-lead counsel and obtained more than \$50 million dollars in monetary relief for consumers who purchased falsely advertised holographic weapons sights)

- *Griffin, Anthony, et al., v. Aldi, Inc., Doe Defendants 1-10*, Case No. 16-cv-00354 (N.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$9.8 million on behalf of a national and NY class of employees who were not paid for all of the hours they worked and who did not receive appropriate overtime under federal and NY law)
- *Run Them Sweet, LLC v. CPA Global, Ltd., et al*, Case No. 1:16-cv-1347 (E.D. VA.) (served as co-lead counsel and obtained a settlement fund of \$5.6 million on behalf of consumers who were overcharged with respect to foreign patent renewal services)
- *Davenport, Sumner, et al. v. Discover Financial Services, et al.*, Case No. 15-cv-06052 (N.D. Ill) (served as co-lead counsel and obtained a settlement fund of \$5.6 million for victims of violations of the Telephone Consumer Protection Act)
- *Rapoport-Hecht, Tziva et al. v. Seventh Generation, Inc.*, Case No. 14-cv-9087 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$4.5 million on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Schmitt, et al. v. Yunique, LLC*, No. 8:17-cv-01397-JVS-JDE (C.D. Cal.), (served as co-lead counsel and obtained a settlement fund of \$3.25 million on behalf of consumers in a case involving allegedly deceptive labeling of consumer products)
- *In re Kia Engine Litigation.*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal.) (served as counsel in an automobile defect case and reached a settlement valued at \$1.3 billion on behalf of owners and lessees of certain Hyundai and Kia vehicles.)
- *Vincent, Wesley, et al. v. People Against Dirty, PBC. and Method Products, PBC.*, Case No. 7:16-cv-06936 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$2.8 million on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Mayhew, Tanya, et al., v. KAS Direct, LLC and S.C. Johnson & Son, Inc.*, Case No. 16-cv-6981 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$2.2 million on behalf of a national class of consumers who purchased baby products alleged to have been deceptively labeled)
- *Patora v. Tarte, Inc.*, Case No. 7:18-cv-11760-KMK (S.D.N.Y.) (served as lead counsel and obtained a settlement fund of \$1.7 million on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Luib, Tony, et al., v. Henkel Consumer Goods Inc.*, Case No. 17-cv-03021 (E.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$1.5 million on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Georgette Santa Maria, et al. v. Hyatt Equities LLC, et al.*, No. 2018-51928 (Dutchess County Supreme Court) (served as co-lead counsel and obtained a settlement fund on behalf of a national and NY class of employees who were not paid for all of the hours they worked and who did not receive appropriate overtime under federal and NY law)
- *Baumgarten v. Cleanwell, LLC*, Case No. 1:16-cv-01780 (E.D.N.Y.) (served as lead counsel and obtained injunctive relief on behalf of a national class of consumers against a company that allegedly sold deceptively labeled products)
- *Nicotra, Jennifer et al. v. Babo Botanicals, LLC*, Case No. 16-cv-00296 (E.D.N.Y.) (served as lead counsel and obtained injunctive relief on behalf of a national class of

consumers against a company that marketed skin and haircare products alleged to have been deceptively labeled)

II. Attorney Biographies

Jason P. Sultzer

Jason P. Sultzer is a nationally recognized trial lawyer and the founding partner of The Sultzer Law Group P.C. He represents clients throughout the United States in high profile litigations and has substantial experience in class actions, mass torts, business disputes, personal injury litigation, product liability, and intellectual property-related issues.

Over the last twenty-four years, Mr. Sultzer has successfully defended and prosecuted nationally recognized companies in highly publicized class action lawsuits in state and federal courts, including proceedings before the Judicial Panel on Multidistrict Litigation. These class actions involved a wide variety of matters, including unfair competition, breach of warranty, product-related issues, employment discrimination, civil rights, overtime wages, the Fair Debt Collection Practices Act, abusive mortgage lending practices, The Telephone Consumer Protection Act, and consumer protection statutes of nearly all fifty states. Mr. Sultzer has been appointed as lead counsel in a number of class action lawsuits in which he has recovered millions of dollars and obtained injunctive relief on behalf of aggrieved consumers nationwide in cases involving fraudulent representations of various products, supplements, foods, and automobiles.

Mr. Sultzer is a frequent author and lecturer about class action lawsuits and has been quoted in national publications concerning the Class Action Fairness Act and class action settlements.

Mr. Sultzer has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a “Mass Tort Lawyer of the Year” by American Law Media, has been recognized as a Super Lawyer for the last ten years, and was selected for Lawdragon’s list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. Mr. Sultzer, was also featured on the front cover of the Wall Street Journal’s Legal Leader’s magazine in 2014 and 2015 designating him as one of New York’s top rated lawyers. In addition, Mr. Sultzer has earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country’s top trial attorneys. The LCA is an invitation-only honorary society that is composed of less than one-half of one percent of American lawyers. Mr. Sultzer is also a member of the LCA’s Trial Law and Diversity Institute and its Honorary Order of Juris (consisting of attorneys who have tried fifty or more bench or jury trials to verdict).

Prior to opening The Sultzer Law Group P.C., Mr. Sultzer was the youngest equity partner at one of the largest law firms in the country where he served as the co-chairman of its class action practice group. Earlier in his career, Mr. Sultzer was in-house counsel for Owens Corning, a Fortune 500 Company, where he was involved in defending the company against tens of thousands of asbestos lawsuits throughout the country.

Joseph Lipari

Joseph Lipari is a partner of The Sultz Law Group. Mr. Lipari has litigated in state and federal courts throughout the United States, and he has appeared before binding arbitration panels. He has achieved numerous successful outcomes as counsel for plaintiffs and defendants, including verdicts and settlements.

He has successfully represented businesses in complex suits arising out of high-profile, catastrophic events including: underground mining accidents in Alabama; steel mill explosions in Pennsylvania and Louisiana; and extended unplanned shutdowns and outages in mills, plants, and factories located across the United States and abroad.

Mr. Lipari was featured in *Law360* for a defense verdict he obtained on behalf of his manufacturer client. *See Moyer v. Siemens VAI Services and Signal Metal Industries, Inc.*, No. 2:11-cv-03185 (E.D. La.) (Louisiana jury found defendant was not liable for \$2.6 million wrongful death award following a deadly molten steel eruption allegedly linked to equipment designed by the company's predecessor).

Mr. Lipari has created significant caselaw in the field of consumer class actions. *See, e.g., Silva, Christopher et al. v. Smucker Natural Foods, Inc. and J.M. Smucker Co.*, 14-cv-6154 (E.D.N.Y.); *Sitt v. Nature's Bounty, Inc. et al.*, 15-cv-04199 (S.D.N.Y.).

He is admitted to the bars of New York, Pennsylvania, and New Jersey. He has also appeared as counsel, by way of *pro hac vice* admission, in over twenty states. Mr. Lipari has lectured and published on topics including trial strategy, patent disputes, hydrofracking in the Marcellus Shale, and risk management practices.

Mr. Lipari is a 2002 graduate of Seton Hall University School of Law. Before law school, he attended Officer Candidate School in Quantico, Virginia, and was offered a commission as Second Lieutenant in the United States Marine Corps.

Prior to joining The Sultz Law Group P.C., Mr. Lipari was a partner at a prominent national litigation firm. Earlier in his career, he was associated with one of the largest law firms in the country.

Mr. Lipari has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a "Mass Tort Lawyer of the Year" by American Law Media, and has been recognized as a Super Lawyer.

Benjamin Zakarin

Mr. Zakarin is an associate at The Sultz Law Group. His litigation practice focuses on commercial and consumer class action litigation as well as government investigations and regulatory enforcement actions.

Prior to joining the firm, Mr. Zakarin was in private practice and served for five years at the New Jersey Office of the Attorney General, including three years as a Deputy Attorney General in the Civil Securities Fraud Prosecution practice group. In that capacity, Mr. Zakarin investigated and prosecuted numerous securities fraud matters, frequently partnering with the Securities and Exchange Commission and the Department of Justice. He also has extensive experience developing and advising on regulatory policies designed to enhance consumer protections.

Mr. Zakarin earned his Juris Doctorate from Wake Forest University School of Law in 2014, where he was a member of the Editorial Staff for the Journal of Business and Intellectual Property Law. He graduated *magna cum laude* from the University of Michigan—Ann Arbor in 2010 after majoring in History and Political Science.

Daniel Markowitz

Daniel Markowitz is an associate at the Sultz Law Group. He is an experienced litigator and class action attorney. Mr. Markowitz is known for developing strong client relationships centered around professionalism, clear communication, and dedication to understanding and fighting for the needs of his clients. He has represented clients on complex litigation in both federal and state court, including many high-profile cases involving prominent businesses. Representing plaintiffs, Mr. Markowitz has worked on class actions that resulted in settlements of over \$50,000,000.00.

Mr. Markowitz received recognition by being selected to the NY Metro Super Lawyers Rising Stars list each year from 2014-2019, and was selected to the NY Metro Super Lawyers list in 2020.

Mr. Markowitz graduated cum laude from NYU and went on to receive his law degree from St. John's University.

Prior to joining The Sultz Law Group P.C., Mr. Markowitz began his career as in-house counsel. He then spent several years at a prominent litigation class action firm. He is admitted to practice in New York State, as well as the United States District Courts for the Southern and Eastern Districts of New York.

Mindy Dolgoff

Ms. Dolgoff is an associate at The Sultz Law Group. She is an experienced litigator and class action attorney and has represented clients on complex litigation matters in both state and federal court.

Prior to joining the firm, Ms. Dolgoff started her career at one of the most prominent international law firms and represented high profile clients on numerous complex commercial matters. She also spent several years at one of the top securities class action law firms where she represented institutional investors in securities fraud class action litigation. In that capacity, Ms. Dolgoff was a member of the trial team that took one of the few securities class action cases to trial and achieved a favorable verdict for its investor clients against a regional bank.

Ms. Dolgoff earned her Juris Doctor from NYU School of Law in 2004, where she served as a staff editor for the Environmental Law Journal. She graduated from Emory University with a B.A. in 2001.

Ethan Rubin

Ethan Rubin is an associate at The Sultz Law Group. Mr. Rubin focuses on representing consumers in a wide range of class actions.

Prior to joining the firm, Mr. Rubin was an associate with two premier mid-size defense litigation law firms where he represented institutional clients in complex tort actions that spanned negligence to malpractice lawsuits.

Mr. Rubin earned his Juris Doctor from Benjamin N. Cardozo School of Law in 2018, where he was the Senior Notes Editor for the Cardozo Journal of Conflict Resolution. He was published by the Cardozo Journal of Conflict Resolution and the American Bar Association Journal of Mediation. Mr. Rubin graduated from SUNY Binghamton University in 2014 with a Bachelor of Arts in History.

David Shoop

For over 15 years, Mr. Shoop has represented injured consumers in a wide range of matters involving the defective design, manufacture, and distribution of dangerous products. He has had a hand in recovering over \$100 million in settlements and verdicts for his clients – just in the realms of product liability and defective medical devices alone. One such case involved a \$30 million verdict in a product liability lawsuit in Los Angeles County (Case No. BC 594187). He also regularly handles multi-million-dollar cases against the manufacturers of medical devices, including a recent \$14 million aggregate settlement for an implantable medical device.

In addition to understanding the inner workings of insurance defense, David has valuable knowledge of engineering and physics, accident reconstruction, biometrics, and other fields applicable to the cases he handles. He uses this knowledge as well as the testimony and work of experts across many fields, such as engineers, economists, medical professionals, and more. He handles cases involving complex engineering, product testing, hazard identification, faulty warnings, and other matters. David is a member of the National Fire Protection Association (NFPA) and has litigated a number of fire and casualty cases, with a recent \$3.5 million settlement for burn injury clients.

Thomas Alch

Over the span of a legal career that has lasted close to three decades, Thomas S. Alch has recovered hundreds of millions of dollars on behalf of clients who were injured through negligence and by defective products. At the forefront of the law on defective medical devices,

he has been featured on national news outlets such as ABC and Fox, as well as radio programs and magazines.

Tom has significant experience litigating highly technical cases involving defective medical devices, which he uses to secure a strong foothold in the uphill battle against negligent manufacturers, distributors, healthcare professionals, and their insurance providers. He has obtained victories for clients in cases involving obstetric vacuums, surgical implements, medical beds, and more.

Tom has many notable wins and achievements on his record. He has argued before the California Court of Appeals and has won numerous jury verdicts. He also regularly handles class actions for medical devices, product recalls, and other dangerous products. He is admitted to practice in California, Nevada, and Arizona.